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In re Application of
BEREZENKO et al.
U.S. Application No. 10/523,312
PCT No.: PCT/GB03/03199
Int. Filing Date: 28 July 2003
Priority Date: 26 July 2002
Attorney Docket No.: 62377-5002US
For: NOVEL ALBUMINS

DECISION ON REQUEST

This decision is issued in response to applicants' "Petition to Correct Inventorship under 37 CFR 1.497(d)" filed 25 October 2005. The \$130 petition fee has been charged to counsel's deposit account.

BACKGROUND

On 28 July 2003, applicants filed international application no. PCT/GB03/03199 which claimed a priority date of 26 July 2002. The international application named Stephen Berezenko; Peter John Sader; Alan James Stewart; and Claudia Blindauer as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 26 January 2005.

On 26 January 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 25 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. Furthermore, the Notification stated that a sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 25 October 2005, applicants filed a Petition to Correct Inventorship under 37 CFR 1.497(d); a sequence listing in computer readable form required by 37 CFR 1.821-1.825; and a declaration executed by: Stephen Berezenko; Peter John Sader; Alan James Stewart, Claudia Blindauer, and Kerry Emma Bunyan.

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Kerry Emma Bunyan to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17; and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

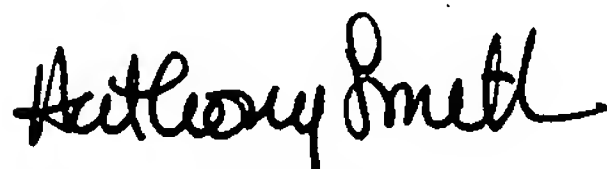
(4) any new oath or declaration required by paragraph (f) of this subsection.

Applicants have satisfied items (1); (2); (3) and (4).

CONCLUSION

The request under 37 CFR 1.497(d) is GRANTED.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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